

E-Filed 9/26/05

NOT FOR CITATION

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

JUAN D. MARTINEZ, et al.,

Plaintiffs,

V.

MONTEREY COUNTY, CALIFORNIA, et al.,

Defendants.

Case Number C 05-2950-JF

ORDER (1) GRANTING IN PART PLAINTIFFS' MOTION FOR ORDER SHORTENING TIME; (2) SETTING BRIEFING SCHEDULE ON PLAINTIFFS' MOTION TO LIFT STAY; AND (3) DEFERRING CONSIDERATION OF PLAINTIFFS' RENEWED *EX PARTE* APPLICATION FOR TRO AND RENEWED MOTION FOR PRELIMINARY INJUNCTION

[Doc. Nos. 43, 48, 54, 56]

On September 22, 2005, Plaintiffs filed the following motions: a motion to lift the stay in this action, a renewed *ex parte* application for a temporary restraining order (“TRO”) and renewed motion for preliminary injunction, and a motion for order shortening time to hear these motions. On September 23, 2005, the Secretary of State filed a letter brief in response to Plaintiffs’ motions, arguing among other things that this Court should continue to abstain in this case pursuant to *Colorado River Water Conservation District v. United States*, 424 U.S. 800 (1976).

The motion to lift the stay properly should be determined before consideration of the merits of the renewed application for TRO and motion for preliminary injunction. The Three Judge Panel assigned to this case therefore GRANTS IN PART Plaintiffs' motion for order shortening time and sets the following expedited briefing schedule on the motion to lift the stay: any opposition shall be filed and served before 5:00 p.m. on October 3, 2005; any reply shall be filed and served before 5:00 p.m. on October 6, 2005. The motion to lift the stay thereafter will be taken under submission without oral argument unless the parties are notified otherwise. If it decides to lift the stay, the Panel will set an appropriate briefing schedule on the renewed application for TRO and motion for preliminary injunction.

On behalf of the Panel, IT IS SO ORDERED.

DATED: September 26, 2005

/s/ electronic signature authorized

JEREMY FOGEL
United States District Judge

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